

## REMARKS

This paper is filed in response to the Office Action mailed 19<sup>th</sup> June 2007. Claims 1-19 and 21 were pending in the application. Claims 1, 19 and 21 have been amended. Claim 2 has been cancelled. Claims 4, 6, 7, 9, 12 and 13 are withdrawn from consideration, rejoinder is hereby respectfully requested. Therefore, claims 1, 3 to 19 and 21 are now pending in the application and are submitted for reconsideration.

Rejection of Claims 1- 3, 5, 8, 10, 14, 17, 18, 19 and 21:

Claims 1- 3, 5, 8, 10, 14, 17, 18, 19 and 21 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,207,295 issued to Latshaw.

In response to these rejections, claim 1 has been amended on the basis of claim 2 and the description and figures to clarify that the guide assembly guides the magnet for movement in a substantially vertical plane with respect to the vehicle and that the extension arm is rigidly attached to the magnet and extends therefrom to contact the rail vehicle.

According to the rejection of the Examiner, Latshaw discloses a guide assembly. The Examiner has however not clearly defined the extent of this guide assembly and delineated it from either the magnet, the vehicle or the extension arm. The extension arm is identified as casting 74. To the extent that Applicant can ascertain, casting 74 does not contact part of the rail vehicle (with respect to which the magnet moves vertically). According to Latshaw and as referenced by the Examiner re claim 3, casting 74 has a first stop surface 76 for contacting a horizontal leg of angle 28. Angle 28 forms part of the rail brake unit (see page 1, right column, lines 35, 36) which is understood to move vertically and laterally together with the magnet assemblies 42. It cannot therefore be considered to form part of the vehicle.

For this reason, the device as presently claimed is believed to be distinct over Latshaw. Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 102(b).

In support of the non-obviousness of the presently claimed device, the Examiner's attention is drawn to the description at page 3, line 10 – 14 of the present description. As there described, the present invention seeks to avoid the need for cross members extending across the rail vehicle. Such cross-members may limit the possibility of low-floor vehicle designs (see page 2, lines 26 to 28). This is achieved by providing a guide assembly to guide

the (movable) magnet with respect to the (fixed) vehicle, while providing a rigidly connected extension arm on the (movable) magnet assembly that extends a distance to contact the (fixed) vehicle. It is understood that the movement of the vehicle and magnet is in relative terms (the vehicle is the point of reference) since the vehicle will be moving along the rails and may also be provided with suspension. In the device disclosed by Latshaw, cross members 28 extend across the vehicle from one brake to the other. The advantage provided by the present invention is thus not achieved. Furthermore, no suggestion is given to the person of ordinary skill as to how or why Latshaw might have been improved to realize the advantages presently described. In particular Latshaw is concerned with improving ground clearance and has offset the ends 32 of the angle members (see page 1, right column, lines 38 to 41). This would have further reduced the available space for a low-floor vehicle design.

The Examiner has not directed Applicant to further documents that overcome this problem and that disclose the claimed features. A document, CH265088, cited in the International Search Report discloses embodiments that appear to avoid cross-members. Nevertheless, the arm 5 that extends from the brake shoe 1 is pivoted to the support 4 at pivot 4' and does not appear to assist in reducing tilting as presently required by the claim.

For the above reasons, the presently claimed subject matter of claim 1 is believed to be non-obvious over Latshaw and the further art of record. Allowance of claim 1 is respectfully requested.

Claims 19 and 21 have been amended on the basis of the same features as claim 1. Their allowance for the same reasons is respectfully requested.

Claims 3 to 18 depend from claim 1 and are thus understood to be allowable on the same basis. Rejoinder of claims 4, 6, 7, 9, 12 and 13 is thus also believed to be appropriate in the circumstance.

\*\*\*\*\*

Should issue of a final rejection be considered, the Examiner is respectfully requested to contact the undersigned by email to [owend@howrey.com](mailto:owend@howrey.com) in order to schedule a telephone interview.

Any extension of time that may be deemed necessary to further the prosecution of this application is hereby requested. The Commissioner is authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 08-3038, referencing the docket number shown above.

Respectfully submitted,



David P. Owen  
Reg. No. 43,344

Date:

18 October 2007

Customer No. 32894  
Howrey LLP  
2941 Fairview Park Drive, Suite 200  
Falls Church, VA 22042  
Fax: 202 383-7195  
Tel: 9 011 31 20 5924411